

Appeal No. 2014-1508

United States Court of Appeals
for the Federal Circuit

Emcore Corporation,

Appellant

"v."

Nichia Corporation

Appellee

-and-

Michelle K. Lee, Deputy Under Secretary of Commerce for Intellectual
Property and Deputy Director of the United States Patent and
Trademark Office,

Intervenor.

APPEAL FROM THE UNITED STATES PATENT AND TRADEMARK
OFFICE, PATENT TRIAL AND APPEAL BOARD IN INTER PARTES
REVIEW NO. IPR2012-00005.

APPELLEE AND INTERVENOR'S JOINT UNOPPOSED MOTION
FOR A THIRTY-DAY EXTENSION OF TIME.

Pursuant to Rule 26(b) of this Court, Appellee, Nichia Corporation, and Intervenor, the Director of the United States Patent and Trademark Office, respectfully request an extension of thirty (30) days to file their briefs. Both Appellee's Brief and Intervenor's Brief are currently due on October 9, 2014. The requested extension would result in Appellee's Brief and Intervenor's Brief being due on November 10, 2014.

The extension is requested on behalf of Nichia Corporation in order to accommodate the schedules of Nichia Corporation's counsel. *See* attached declarations of Matthew A. Smith and Andrew S. Baluch. The extension is requested on behalf of the Intervenor in order to harmonize the Appellee's and Intervenor's briefing deadlines. *See* attached declaration of Stacy B. Margolies.

Counsel for Appellee and Intervenor have conferred with counsel for the Appellant, Emcore Corporation. Appellant has stated that it does not oppose the relief requested in this motion.

Neither Appellee nor Intervenor has asked for or received any previous extensions of time with respect to this appeal. For these reasons, Appellee and Intervenor respectfully request that the Court

extend the deadline for its Appellee's Brief to November 10, 2014. As noted above, this motion is unopposed.

Dated: September 9, 2014

Respectfully submitted,

/s/ Matthew A. Smith
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/s/ Stacy B. Margolies
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Patent and Trademark Office

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APPEAL FROM THE UNITED STATES PATENT AND TRADEMARK
OFFICE, PATENT TRIAL AND APPEAL BOARD IN INTER PARTES
REVIEW NO. IPR2012-00005.

**DECLARATION OF MATTHEW A. SMITH IN SUPPORT OF
APPELLEE'S MOTION FOR EXTENSION OF TIME**

I, Matthew A. Smith, state the following in support of Appellee's Motion for a 30-day extension to file its appellee brief:

1. I am lead counsel for Nichia Corporation in this appeal.
2. Under the existing briefing schedule, Nichia Corporation must file the Appellee brief by October 9, 2014.
3. Nichia Corporation requests an extension of thirty (30) days (until November 10, 2014) to file the Appellee's brief.
4. Nichia Corporation seeks the extension to accommodate its lead counsel's and additional counsel's other professional obligations that will occur in September and early October, 2014.
5. Specifically, the undersigned is lead trial counsel on several inter partes review matters, several of which must be filed shortly, and others of which that will likely have at least two depositions in September. The undersigned also has a significant brief due at the USPTO in an inter partes reexamination matter on September 28.
6. Nichia Corporation has not asked for or received any previous extensions of time with respect to this appeal.

7. Counsel for Nichia Corporation has conferred with counsel for the Appellant and the Intervenor, and all parties consent to the relief request by this Motion.
8. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: September 9, 2014 Respectfully submitted,

/s/ Matthew A. Smith

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*Lead Attorney for Appellee
Nichia Corporation*

Appeal No. 2014-1508

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Emcore Corporation,

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Michelle K. Lee, Deputy Under Secretary of Commerce for Intellectual
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APPEAL FROM THE UNITED STATES PATENT AND TRADEMARK
OFFICE, PATENT TRIAL AND APPEAL BOARD IN INTER PARTES
REVIEW NO. IPR2012-00005.

DECLARATION OF ANDREW S. BALUCH IN SUPPORT OF
APPELLEE'S MOTION FOR EXTENSION OF TIME

I, Andrew S. Baluch, state the following in support of Appellee's Motion for a 30-day extension to file its appellee brief:

1. I am listed as additional counsel for Nichia Corporation in this appeal.
2. Under the existing briefing schedule, Nichia Corporation must file the Appellee brief by October 9, 2014.
3. Nichia Corporation requests an extension of thirty (30) days (until November 10, 2014) to file the Appellee's brief.
4. Nichia Corporation seeks the extension to accommodate its lead counsel's and additional counsel's other professional obligations that will occur in August and early September, 2013.
5. Specifically, the undersigned is lead trial counsel on several inter partes review matters, several of which have deadlines in September and early October. The undersigned also will be arguing an appeal before the Patent Trial and Appeal Board in an inter partes reexamination on October 1 and will be involved in two oral arguments in this Court scheduled in October.
6. Nichia Corporation has not asked for or received any previous extensions of time with respect to this appeal.

7. Counsel for Nichia Corporation has conferred with counsel for the Appellant and the Intervenor, and all parties consent to the relief request by this Motion.
8. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: September 9, 2014

Respectfully submitted,

/s/ Andrew S. Baluch

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*Counsel for Appellee
Nichia Corporation*

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

EMCORE CORPORATION,)	
<i>Appellant</i>)	
)	
v.)	
)	
NICHIA CORPORATION)	Appeal No. 2014-1508
<i>Appellee,</i>)	
)	
and)	
)	
MICHELLE K. LEE,)	
<i>Intervenor.</i>)	
)	

**DECLARATION IN SUPPORT OF DIRECTOR'S UNOPPOSED MOTION FOR
A THIRTY-DAY EXTENSION OF TIME**

I, Stacy B. Margolies, hereby declare:

1. I am the primary attorney assigned to work on the above-captioned case.
2. I submit this declaration in accordance with Federal Circuit Rule 26(b)(5) and in support of the Director's Unopposed Motion for a Thirty-Day Extension of Time.
3. Appellee Nichia Corporation seeks a 30-day extension of time – until November 10, 2014 – to file its brief. The Director seeks an identical extension of time so that appellee's brief and the Director's brief are due on the same day.
4. Counsel for Appellant has stated that Appellant does not oppose the Director's motion for an extension of time.

5. Counsel for Appellee has stated that Appellee does not oppose the Director's motion for an extension of time.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 9, 2014

/s/ Stacy B. Margolies

Stacy B. Margolies
Associate Solicitor

FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

____ v. _____

No. _____

CERTIFICATE OF INTEREST

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party) _____ certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Date_____
Signature of counsel_____
Printed name of counsel

Please Note: All questions must be answered

cc: _____

FORM 30. Certificate of Service

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF SERVICE

I certify that I served a copy on counsel of record on
by:

US mail
Fax
Hand
Electronic Means
(by email or CM/ECF)

Name of Counsel

Signature of Counsel

Law Firm

Address

City, State, ZIP

Telephone Number

FAX Number

E-mail Address

NOTE: For attorneys filing documents electronically, the name of the filer under whose log-in and password a document is submitted must be preceded by an “/s/” and typed in the space where the signature would otherwise appear. Graphic and other electronic signatures are discouraged.